

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ESTATE OF BURKHARD
KETSCHAU, et al.,

Plaintiffs,

v.

PROGRESSIVE DIRECT
INSURANCE COMPANY,

Defendant.

CASE NO. C23-1676JLR

ORDER

Before the court are several filings by Plaintiffs Ryan Ketschau, Ruby E. Ketschau, and the Estate of Burkhard Ketschau (individually, the “Estate” and collectively, “Plaintiffs”), which the court construes as comprising: (1) Plaintiffs’ response to the court’s February 29, 2024 order to show cause why this matter should not be dismissed for failure to comply with Federal Rule of Civil Procedure 4(m), and (2) a motion for summary judgment. (*See* Notice (Dkt. # 15); Mem. (Dkt. # 16); Statement (Dkt. # 17); Pl. Decl. (Dkt. # 18); *see also* 2/9/24 OSC (Dkt. # 14).) The court enters this

1 order to address Plaintiffs' filings and to provide instruction on how to proceed in this
2 matter.

3 Plaintiffs commenced this action on November 2, 2023. (Compl. (Dkt. # 1).) Mr.
4 Ketschau and Ms. Ketschau are proceeding *pro se*, and Mr. Ketschau is proceeding on
5 behalf of the Estate. (See 12/21/23 Order (Dkt. # 11).) On January 8, 2024, Plaintiffs
6 filed a motion for leave to amend their complaint, attaching redlines showing their
7 proposed amendments to the complaint. (Mot. for Leave (Dkt. # 12).) The court granted
8 Plaintiffs' motion and ordered them to file their amended complaint on the docket by no
9 later than January 23, 2024. (1/9/24 Order (Dkt. # 13).) Plaintiffs never filed their
10 amended complaint on the docket. (See *generally* Dkt.) Accordingly, the operative
11 complaint remains Plaintiffs' original complaint filed on November 2, 2023. (See
12 *generally* Compl.)

13 To date, Plaintiffs have not filed a certificate of service showing that they served a
14 copy of the summons and complaint on Defendant Progressive Direct Insurance
15 Company ("Progressive"). (See *generally* Dkt.) Accordingly, the court ordered Plaintiffs
16 to show cause why this matter should not be dismissed for failure to comply with Rule
17 4(m). (2/9/24 OSC); *see also* Fed. R. Civ. P. 4(m) ("If a defendant is not served within
18 90 days after the complaint is filed, the court—on motion or on its own after notice to the
19 plaintiff—must dismiss the action without prejudice against that defendant or order that
20 service be made within a specified time. But if the plaintiff shows good cause for the
21 failure, the court must extend the time for service for an appropriate period.").

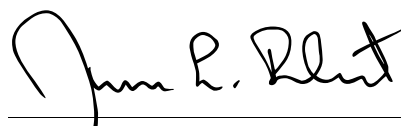
22 //

1 In response to the court's order to show cause, Plaintiffs filed a document stating
2 that they "in good faith show cause to the court to extend the time for service for an
3 appropriate period." (Notice at 1.) In support of their brief request for an extension of
4 time for service, Plaintiffs cite several exhibits which show that Ms. Ketschau was
5 hospitalized for a brain tumor in January of this year. (*Id.* at 2 (citing Exhibits (Dkt.
6 # 18-1)).)

7 Finding good cause based on Ms. Ketschau's recent medical emergency, the court
8 DISCHARGES its order to show cause (Dkt. # 14) and ORDERS as follows: Plaintiffs
9 must file their amended complaint on the docket by no later than **April 5, 2024**. If
10 Plaintiffs fail to timely file their amended complaint, the court will dismiss this case
11 without prejudice for failure to comply with Rule 4(m). If Plaintiffs timely file their
12 amended complaint, that filing shall reset the 90-day time period for service, meaning
13 Plaintiffs must serve a copy of the summons and amended complaint on Progressive and
14 file proof of the same within 90 days of the date that they file their amended complaint.
15 *See* Fed. R. Civ. P. 4(m).

16 To the extent Plaintiffs move for summary judgment, that motion is DENIED as
17 premature (Dkt. # 16). It is wholly inappropriate to rule on summary judgment before
18 service of the complaint, as Progressive has neither received notice of nor had an
19 opportunity to defend in this action.

20 Dated this 19th day of March, 2024.

21 

22 JAMES L. ROBART
United States District Judge